

AMENDED IN ASSEMBLY JULY 9, 2009

AMENDED IN ASSEMBLY JUNE 23, 2009

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 30, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 406

Introduced by Senator DeSaulnier

February 26, 2009

An act to amend Section 65040.6 of, and to add Section 65083 to, the Government Code, to amend Section 75125 of the Public Resources Code, and to add Section 9250.6 to the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 406, as amended, DeSaulnier. Land use: environmental quality.

The Planning and Zoning Law establishes the Planning Advisory and Assistance Council in the Office of Planning and Research, and prescribes the membership and duties of the council. Existing law authorizes the Department of Motor Vehicles to collect a surcharge imposed on vehicle registration fees by ordinance or resolution of a local entity.

This bill would change the designated membership, as specified, of the Planning Advisory and Assistance Council and would require that the council work with the Strategic Growth Council, regional agencies, and cities and counties to facilitate the implementation of regional blueprint plans. The bill would also require the council to develop and propose recommendations to specified state agencies to facilitate

coordination between regional blueprint plans~~and~~, state growth and infrastructure funding plans, and programs that facilitate the implementation of regional blueprint plans. The bill would further require the council to report to the Legislature on regional performance measures, as specified, and on the manner in which state agencies are implementing the 5-year infrastructure plan. *The bill would require the council to begin to perform the above functions and duties when sufficient funding, as determined by the council, exists from the revenue transmitted to it by metropolitan planning organizations, councils of governments, or county transportation commissions and subregional councils of governments jointly preparing subregional sustainable communities strategies.*

The bill would also authorize a municipal planning organization, as defined, a council of governments, as defined, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy to adopt a resolution to impose a surcharge of \$1 or \$2 on motor vehicles registered to an owner with an address in the entity's or entities' jurisdiction, only if the metropolitan planning organization or the council of governments adopts, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy adopt, a resolution authorizing the surcharge. The surcharge would be required to apply to an original vehicle registration occurring on or after 6 months following the adoption of the resolution, as specified, and to a renewal of registration with an expiration date on or after that 6-month period. The surcharge would be collected by the Department of Motor Vehicles and, after deducting its administrative costs, would be transmitted to the entity or entities imposing the surcharge. The bill would require the metropolitan planning organization, the council of governments, ~~the air district,~~ or the county transportation commission and the subregional council of governments jointly preparing a subregional sustainable communities strategy to contract with the department to pay for the initial setup and programming costs identified by the department, but would also require these costs to be reimbursed from surcharge revenues collected. The bill would require that all revenue received *by the local air quality management district* pursuant to the above provisions be used by the metropolitan planning organization, the council of governments, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities

strategy solely to develop and implement a sustainable communities strategy or a regional blueprint plan *to identify land use strategies to reduce the use of motor vehicles in its jurisdiction in order to achieve a specified greenhouse gas emission reduction target*; the surcharge revenue that exceeds \$1 in specified jurisdictions be used to provide grants to cities, counties, and cities and counties for planning and projects related to the implementation of a regional blueprint plan; and 5% of all the surcharge revenue be transmitted to the council for performance of specified functions. The bill would provide that the council is to perform specified new functions only when the council has received sufficient revenue from this source.

~~The bill would authorize the Sacramento Metropolitan Air Quality District and the Bay Area Air Quality Management District to impose a surcharge of \$1 on a motor vehicle registered to an owner with an address within its jurisdiction. The surcharge would be authorized to be imposed only if the air district adopts a resolution authorizing it. The surcharge would apply to an original vehicle registration occurring on or after 6 months following the adoption of the resolution by the air district and to a renewal of registration with an expiration date on or after that 6-month period. The bill would require all revenue received pursuant to this surcharge to be used to assist local and regional governments in reducing greenhouse gas emissions.~~

The bill would state the intent of the Legislature to update the duties and composition of the Planning Advisory and Assistance Council to assist in the state's land use planning processes by providing funding to support the development and implementation for regional blueprints and related planning and to work with state agencies providing funding for resource protection and local infrastructure to facilitate coordination between state planning and funding decisions and regional blueprints.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares the
- 2 following:
- 3 (1) Uncoordinated and unplanned growth together with a lack
- 4 of common goals to effect the public's interest in the conservation
- 5 and wise use of our lands pose a threat to the environment,

1 sustainable economic development, and the health, safety, and
2 high quality of life enjoyed by residents of this state.

3 (2) The enactment of Senate Bill 375 of the 2007–08 Regular
4 Session (Chapter 728 of the Statutes of 2008) and the establishment
5 of requirements for regional transportation plans to address
6 greenhouse gases can only be successfully implemented if regional
7 and local governments have the tools they need to collaboratively
8 plan for the type of growth that can achieve these goals, and if that
9 collaborative planning is coordinated with the efforts of the
10 Governor’s Strategic Growth Council and other state agencies as
11 required by the enactment of Senate Bill 732 of the 2007–08
12 Regular Session (Chapter 729 of the Statutes of 2008).

13 (3) Cooperation between regional and local governments and
14 air districts is essential to the achievement of the greenhouse gas
15 emission reductions envisioned in regional transportation plans.

16 (4) Therefore, it is in the public interest that state residents,
17 communities, local governments, air districts, and the private sector
18 cooperate and coordinate with one another in comprehensive,
19 sustainable land use planning.

20 (b) It is the intent of the Legislature to update the duties and
21 composition of the Planning Advisory and Assistance Council to
22 assist in the state’s land use planning processes by providing
23 funding to support the development and implementation for
24 regional blueprints and related planning and to work with state
25 agencies providing funding for resource protection and local
26 infrastructure to facilitate coordination between state planning and
27 funding decisions and regional blueprints.

28 SEC. 2. Section 65040.6 of the Government Code is amended
29 to read:

30 65040.6. (a) The Planning Advisory and Assistance Council
31 is hereby created within the office, the membership of which shall
32 be as follows: three city representatives; three county
33 representatives; seven representatives of regional planning
34 organizations; one member of the State Air Resources Board; one
35 member of the California Transportation Commission; one member
36 of the State Energy Resource Conservation and Development
37 Commission; one member appointed by the Speaker of Assembly;
38 one member appointed by the Senate Committee on Rules; and
39 one representative of Indian tribes and bands which have
40 reservations or rancherias within California. The city and county

1 representatives appointed pursuant to this subdivision shall be
2 selected by the director from nominees submitted by the League
3 of California Cities and by the California State Association of
4 Counties. Representatives of regional planning organizations
5 appointed pursuant to this subdivision shall be selected by the
6 director from nominees submitted by the regional planning
7 organizations set forth in paragraphs (1) to (5), inclusive, of
8 subdivision (b) and from nominees submitted by the California
9 Association of Councils of Governments for the representatives
10 of organizations set forth in paragraphs (6) and (7) of subdivision
11 (b). The representative of Indian tribes and bands shall be a member
12 of one tribe or band, and shall be selected by the director.

13 Appointment to the advisory council shall be for a term of two
14 years, provided that the members of the first council shall classify
15 themselves by lot so that one-half shall serve an initial term of one
16 year and one-half shall serve an initial term of two years. Vacancies
17 shall be filled in the same manner provided for the original
18 appointment.

19 (b) Seven of the council's members shall be from the governing
20 body of each of the following:

- 21 (1) The Southern California Association of Governments.
- 22 (2) The Metropolitan Transportation Commission or the
23 Association of Bay Area Governments. The person appointed to
24 the council pursuant to this paragraph shall be a member of the
25 governing body for both the Metropolitan Transportation
26 Commission and the Association of Bay Area Governments.
- 27 (3) The San Diego Association of Governments.
- 28 (4) The Sacramento Area Council of Governments.
- 29 (5) The San Joaquin Valley Regional Policy Council.
- 30 (6) A metropolitan planning organization or council of
31 governments that is not identified in paragraphs (1) to (5),
32 inclusive.
- 33 (7) A regional transportation planning agency, as defined in
34 Section 65080, that is neither a metropolitan planning organization
35 nor a council of governments.
- 36 (c) The council shall provide such advice as may be necessary
37 to assist the office in discharging the requirements of Sections
38 65040 to 65040.4, inclusive. In particular, the council shall:

1 (1) Assist the office in the preparation of the state long-range
2 goals and policies, in the manner specified in subdivision (a) of
3 Section 65040.

4 (2) Evaluate the planning functions of the various state agencies
5 involved in planning, in the manner specified in subdivision (c)
6 of Section 65040.

7 (3) Make appropriate decisions and provide such advice and
8 assistance as may be required by federal statute or regulation in
9 connection with any federal program administered by the office.

10 (4) Work with the Strategic Growth Council, created pursuant
11 to Section 75121 of the Public Resources Code, regional agencies,
12 such as metropolitan planning organizations or councils of
13 governments, and with cities and counties to facilitate the
14 implementation of regional blueprint plans.

15 (5) Develop and propose recommendations to the Strategic
16 Growth Council, created pursuant to Section 75121 of the Public
17 Resources Code, the Department of General Services, the State
18 Allocation Board, the Department of Housing and Community
19 Development, the California Transportation Commission, and any
20 other state agencies that affect land use, housing, or transportation
21 in order to facilitate coordination between regional blueprint plans
22 and, state growth and infrastructure funding plans, and programs
23 that facilitate the implementation of regional blueprint plans.

24 (6) Receive reports, including, but not limited to, a copy of the
25 five-year infrastructure plan described in Section 13102.

26 (7) Report to the Legislature, in consultation and coordination
27 with the Strategic Growth Council, created pursuant to Section
28 75121 of the Public Resources Code, on the manner in which state
29 agencies are implementing the requirements of Chapter 1016 of
30 the Statutes of 2002.

31 (8) Report to the Legislature on regional performance measures,
32 evaluating the progress of each region of the state in improving
33 results for its residents in employment, environmental protection,
34 education, housing, mobility, and other criteria as determined by
35 the council. The council shall provide the Legislature with updates
36 to the report periodically, as the council determines is required.

37 (d) The council shall meet on call of the director of the office,
38 who shall convene at least two council meetings during each year.

1 (e) Council members shall serve without compensation, but
2 they may be reimbursed for actual expenses incurred in connection
3 with their duties.

4 (f) The council shall begin to perform the functions and other
5 duties set forth in paragraphs (4) to (8), inclusive, of subdivision
6 (c) when sufficient funding, as determined by the council, exists
7 from the revenue transmitted to it by metropolitan planning
8 organizations, councils of governments, or county transportation
9 commissions and subregional councils of governments jointly
10 preparing subregional sustainable communities strategies pursuant
11 to subdivision (b) of Section 65083.

12 SEC. 3. Section 65083 is added to the Government Code, to
13 read:

14 65083. (a) A metropolitan planning organization, as defined
15 in Section 134 of Title 23 of the United States Code, a council of
16 governments, as defined in Section 65582, or a county
17 transportation commission and a subregional council of
18 governments jointly preparing a subregional sustainable
19 communities strategy pursuant to subparagraph (C) of paragraph
20 (2) of subdivision (b) of Section 65080 may impose a surcharge
21 of one dollar (\$1) or two dollars (\$2) pursuant to Section 9250.6
22 of the Vehicle Code, on a motor vehicle registered to an owner
23 with an address in its jurisdiction. The surcharge may be imposed
24 only if the metropolitan planning organization, the council of
25 governments, or a county transportation commission and a
26 subregional council of governments jointly preparing a subregional
27 sustainable communities strategy adopts a resolution authorizing
28 the surcharge. A resolution by the Metropolitan Transportation
29 Commission or the Association of Bay Area Governments to
30 impose the surcharge shall be jointly adopted by resolution of both
31 of those entities, and the revenue from the surcharge shall be
32 divided in accordance with an agreement between these two
33 entities. A resolution by a county transportation commission or a
34 subregional council of governments within the jurisdiction of the
35 Southern California Association of Governments shall be jointly
36 adopted by resolution of both of the entities, and the revenue from
37 the surcharge shall be divided in accordance with an agreement
38 between the two entities. The surcharge shall apply to an original
39 vehicle registration occurring on or after six months following the
40 adoption of the resolution by the metropolitan planning

1 organization, council of governments, or a county transportation
2 commission and a subregional council of governments jointly
3 preparing a sustainable communities strategy and to a renewal of
4 registration with an expiration date on or after that six-month
5 period.

6 (b) All revenue received pursuant to subdivision (a) shall be
7 used by the metropolitan planning organization, the council of
8 governments, or a county transportation commission and a
9 subregional council of governments jointly preparing a subregional
10 sustainable communities strategy solely to develop and implement
11 a sustainable communities strategy or a regional blueprint plan to
12 identify land use strategies to reduce the use of motor vehicles in
13 its jurisdiction and thereby ~~reduce emissions into the environment~~
14 ~~from motor vehicles achieve the greenhouse gas emission reduction~~
15 ~~target as specified in Section 65080, and to implement a~~
16 ~~sustainable communities strategy or regional blueprint plan that~~
17 ~~achieves the greenhouse gas emission reduction target as specified~~
18 ~~in Section 65080.~~ If the surcharge exceeds one dollar (\$1), all
19 amounts above one dollar (\$1) in a jurisdiction with a population
20 greater than 300,000 shall be used to provide grants to cities,
21 counties, and cities and counties for planning and projects related
22 to the implementation of a regional blueprint plan. The
23 metropolitan planning organization, the council of governments,
24 or a county transportation commission and a subregional council
25 of governments jointly preparing a subregional sustainable
26 communities strategy shall transmit 5 percent of all surcharge
27 revenue it receives pursuant to Section 9250.6 of the Vehicle Code
28 to the Planning Advisory and Assistance Council within the Office
29 of Planning and Research to perform the functions specified in
30 subdivision (f) of Section 65040.6.

31 ~~(c) The Sacramento Metropolitan Air Quality Management~~
32 ~~District and the Bay Area Air Quality Management District, as~~
33 ~~defined respectively in Sections 40980 and 40220 of the Health~~
34 ~~and Safety Code, may each impose a surcharge of one dollar (\$1)~~
35 ~~pursuant to Section 9250.6 of the Vehicle Code, on a motor vehicle~~
36 ~~registered to an owner with an address within its jurisdiction. The~~
37 ~~surcharge shall apply to an original vehicle registration occurring~~
38 ~~on or after six months following the adoption of the resolution by~~
39 ~~the air district and to a renewal of registration with an expiration~~
40 ~~date on or after that six-month period.~~

(c) *The metropolitan planning organization, the council of governments, or a county transportation commission and a subregional council of governments jointly preparing a subregional sustainable communities strategy, may, pursuant to an agreement with the local air quality management district that has responsibility over the jurisdiction, divide revenues received pursuant to this section jointly with the local air quality management district.*

(d) All revenue received by the local air quality management district pursuant to subdivision (c) shall be used to assist local and regional governments in reducing greenhouse gas ~~emissions, including, but~~ emissions. Appropriate manners of assistance include, but are not limited to, all of the following:

(1) Assistance in the development of a subregional sustainable communities strategy.

(2) Assistance in the development of local greenhouse gas emission inventories.

(3) Assistance in the development of greenhouse gas emission reduction strategies in general plans.

(4) Development and assistance of CEQA guidelines and review of greenhouse gas emissions in CEQA analyses.

(5) Consultation and development of local climate action plans.

(6) Project specific consultation work to reduce greenhouse gas emissions from local transportation and land use decisions.

(e) For purposes of this section, a sustainable communities strategy and an alternative planning strategy shall both be considered to be a regional blueprint.

SEC. 4. Section 75125 of the Public Resources Code is amended to read:

75125. The council shall do all of the following:

(a) Identify and review activities and funding programs of member state agencies that may be coordinated to improve air and water quality, improve natural resource protection, increase the availability of affordable housing, improve transportation, meet the goals of the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), encourage sustainable land use planning, and revitalize urban and community centers in a sustainable manner. At a minimum, the council shall review and comment on the five-year infrastructure plan developed pursuant to Article 2

1 (commencing with Section 13100) of Chapter 2 of Part 3 of
2 Division 3 of the Government Code and the State Environmental
3 Goals and Policy Report developed pursuant to Section 65041 of
4 the Government Code.

5 (b) Recommend policies and investment strategies and priorities
6 to the Governor, the Legislature, and to appropriate state agencies
7 to encourage the development of sustainable communities, such
8 as those communities that promote equity, strengthen the economy,
9 protect the environment, and promote public health and safety,
10 and is consistent with subdivisions (a) and (c) of Section 75065.

11 (c) Provide, fund, and distribute data and information to local
12 governments and regional agencies that will assist in developing
13 and planning sustainable communities.

14 (d) Manage and award grants and loans to support the planning
15 and development of sustainable communities, pursuant to Sections
16 75127, 75128, and 75129. To implement this subdivision, the
17 council may do all of the following:

18 (1) Develop guidelines for awarding financial assistance,
19 including criteria for eligibility and additional consideration.

20 (2) Develop criteria for determining the amount of financial
21 assistance to be awarded. The council shall award a revolving loan
22 to an applicant for a planning project, unless the council determines
23 that the applicant lacks the fiscal capacity to carry out the project
24 without a grant. The council may establish criteria that would allow
25 the applicant to illustrate an ongoing commitment of financial
26 resources to ensure the completion of the proposed plan or project.

27 (3) Provide for payments of interest on loans made pursuant to
28 this article. The rate of interest shall not exceed the rate earned by
29 the Pooled Money Investment Board.

30 (4) Provide for the time period for repaying a loan made
31 pursuant to this article.

32 (5) Provide for the recovery of funds from an applicant that fails
33 to complete the project for which financial assistance was awarded.
34 The council shall direct the State Controller to recover funds by
35 any available means.

36 (6) Provide technical assistance for application preparation.

37 (7) Designate a state agency or department to administer
38 technical and financial assistance programs for the disbursing of
39 grants and loans to support the planning and development of

1 sustainable communities, pursuant to Sections 75127, 75128, and
2 75129.

3 (e) No later than July 1, 2010, and every year thereafter, provide
4 a report to the Legislature that shall include, but is not limited to,
5 all of the following:

6 (1) A list of applicants for financial assistance.

7 (2) Identification of which applications were approved.

8 (3) The amounts awarded for each approved application.

9 (4) The remaining balance of available funds.

10 (5) A report on the proposed or ongoing management of each
11 funded project.

12 (6) Any additional minimum requirements and priorities for a
13 project or plan proposed in a grant or loan application developed
14 and adopted by the council pursuant to subdivision (c) of Section
15 75216.

16 (7) In making recommendations pursuant to subdivisions (a)
17 and (b) and in providing data and information pursuant to
18 subdivision (c), the council shall consult with and coordinate its
19 recommendations with the Planning Advisory and Assistance
20 Council created pursuant to Section 65040.6 of the Government
21 Code.

22 SEC. 5. Section 9250.6 is added to the Vehicle Code, to read:

23 9250.6. (a) In addition to any other fees specified in this code,
24 the Health and Safety Code, and the Revenue and Taxation Code,
25 a surcharge of one dollar (\$1) or two dollars (\$2) may be imposed
26 by a metropolitan planning organization, a council of governments,
27 or a county transportation commission and a subregional council
28 of governments jointly preparing a subregional sustainable
29 communities strategy pursuant to subparagraph (C) of paragraph
30 (2) of subdivision (b) of Section 65080. ~~In addition to any other~~
31 ~~fees specified in this code, the Health and Safety Code, and the~~
32 ~~Revenue and Taxation Code, a surcharge of one dollar (\$1) may~~
33 ~~be imposed by the Sacramento Metropolitan Air Quality~~
34 ~~Management District and the Bay Area Air Quality Management~~
35 ~~District. These fees shall be paid to the department as follows:~~

36 (1) Upon initial registration on or after the date the department
37 begins collecting the fee for a motor vehicle not previously
38 registered in this state that is registered to an owner with an address
39 in the jurisdiction of the metropolitan planning organization, the
40 council of governments, ~~the air district,~~ or the county transportation

1 commission and the subregional council of governments jointly
2 preparing a subregional sustainable communities strategy
3 requesting imposition of the surcharge.

4 (2) Upon renewal of registration of a motor vehicle to an owner
5 with an address in the jurisdiction of the metropolitan planning
6 organization, the council of governments, ~~the air district~~, or the
7 county transportation commission and the subregional council of
8 governments jointly preparing a subregional sustainable
9 communities strategy requesting imposition of the surcharge for
10 which the registration period expires after the date the department
11 begins collecting the fee.

12 (b) Prior to the adoption of a surcharge pursuant to this section,
13 the metropolitan planning organization, the council of governments,
14 ~~the air district~~, or the county transportation commission and the
15 subregional council of governments jointly preparing a subregional
16 sustainable communities strategy shall approve the imposition of
17 the surcharge through the adoption of a resolution, as specified in
18 Section 65083 of the Government Code.

19 (c) The metropolitan planning organization, the council of
20 governments, ~~the air district~~, or the county transportation
21 commission and the subregional council of governments jointly
22 preparing a subregional sustainable communities strategy shall
23 pay for the costs identified by the department to administer the
24 surcharge. After deducting those costs, the department shall
25 transmit the surcharge revenue quarterly to the metropolitan
26 planning organization, the council of governments, ~~the air district~~,
27 or the county transportation commission and the subregional
28 council of governments jointly preparing a subregional sustainable
29 communities strategy.

30 (d) (1) The metropolitan planning organization, the council of
31 governments, ~~the air district~~, or the county transportation
32 commission and the subregional council of governments jointly
33 preparing a subregional sustainable communities strategy shall
34 contract with the department to pay for the initial setup and
35 programming costs identified by the department.

36 (2) These initial setup and programming costs shall be
37 reimbursed to the metropolitan planning organization, the council
38 of governments, ~~the air district~~, or the county transportation
39 commission and the subregional council of governments jointly

- 1 preparing a subregional sustainable communities strategy from
- 2 surcharge revenues collected.

O